

DEPARTMENT OF CONSUMER AFFAIRS
DIVISION OF LEGISLATIVE & POLICY REVIEW
LEGISLATIVE DIGEST - 2010 Legislative Session

A. GENERAL CONSUMER PROTECTION BILLS

(1) BUSINESS PRACTICES

AB 413
Fuentes

Unfair Competition

**Died on Senate
Floor**

Would have included the use of unlicensed software within the definition of “unfair competition” for purposes of the state unfair competition statutes.

AB 482
Mendoza

Employment: Credit Reports

Vetoed

Would have prohibited an employer from using a consumer credit report for employment purposes. Employment within the Department of Justice or law enforcement, any management position, or any position that handles substantial finances or trade secrets would have been exempt from this prohibition.

AB 519
Solorio

Vehicles: Towing Fees & Access Notice

**Enacted
Chapter 566**

Establishes notice and invoicing standards for individuals and companies that offer towing services and/or towed vehicle storage services and defines the type of documentation that a towing company may require to release a vehicle.

AB 1140
Niello

California Private Postsecondary Education Act of 2009

**Died on Senate
Inactive File**

Would have provided for a one-year delay in implementation of the California Private Postsecondary Education Act of 2009, beginning July 1, 2010, for institutions that offer flight instruction or an institution that offers Federal Aviation Administration certified educational programs in aircraft maintenance.

AB 1647
Hayashi

Athletics

Vetoed

Would have created a title act for “certified” athletic trainers and made it an unfair business practice for individuals to call themselves a certified athletic trainer without meeting specified requirements.

AB 2289
Eng

Smog Check Program: Testing: Penalties

**Enacted
Chapter 258**

Makes a number of program changes to upgrade the motor vehicle inspection and maintenance (Smog Check) program, operated by the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs. These changes include increasing flexibility in testing procedures, adopting new technologies, adopting a more stringent fine structure for Smog Check technicians as well as stations, and requiring an annual evaluation of the Smog Check program by BAR.

AB 2393
Ammiano

California Private Postsecondary Education Act of 2009

Vetoed

Would have modified the reporting standard for calculating private postsecondary schools' placement rates with respect to specified apprenticeable and nursing fields. It would have also put language into statute that might have preserved certain legal claims brought under the former Private Postsecondary Act.

AB 2654
Hill

Solicitations

Vetoed

Would have required disclaimers that are presently required on solicitations and mailings to be posted conspicuously on the front of the envelope, outside cover, or wrapper in which the matter is mailed and would have established penalties for violating specified disclosure requirements.

SB 1071
DeSaulnier

Prescription Drugs: Controlled Substances Tax: CURES

**Died in
Senate
Health
Committee**

Would have placed a tax on the manufacturers and importers of controlled substances that are classified as Schedule II, III or IV for the purposes of funding the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified. Also, would have created a tax credit for those 55 and older to offset medicinal costs.

(2) COURT SYSTEM & LEGAL SERVICES

AB 585
Cook

Deceased Personalities

**Enacted
Chapter 20**

Expands the definition of "deceased personality" to include any natural person whose name, voice, signature, photograph, or likeness has commercial value either at the time of the person's death, or because of the person's death.

AB 898
Lieu

Documents: Notaries Public: Solicitations

Vetoed

Would have permitted the Secretary of State, with discretion, to refuse to process or file a document that appeared false or fraudulent; prohibited the use of a subscribing witness when establishing a power of attorney; retained the ability for notaries public who work for financial institutions to execute protests, but eliminated the mandate for other notaries public to execute such protests.

AB 1986
Silva

Statutory Wills: Form

**Enacted
Chapter 88**

Makes non-controversial changes to the California Statutory Will form for clarification.

AB 2271
Silva

Probate: Appeals

**Enacted
Chapter 94**

Allows a probate court to appoint a temporary trustee, who can exercise trustee powers, to replace the removed trustee during the course of their appeal of a probate order or judgment.

AB 2493 Fuller	<u>Conservators: Photograph of Missing Conservatee</u> Requires, upon the establishment of a conservatorship by the court and annually thereafter, that a conservator of a person ensure that a clear photograph of the conservatee is taken and preserved for the purpose of identifying the conservatee if he or she becomes missing.	Enacted Chapter 97
SB 55 Corbett	<u>The State Bar Act</u> Extends the State Bar's authority to collect annual membership fees for 2010 and increases the State Bar's informal bid contracting limits for information technology goods, services, or both from \$50,000 to \$100,000. <i>(Urgency Clause)</i>	Enacted Chapter 2
SB 105 Harman	<u>Donative Transfers: Restrictions</u> Redefines donative transfers by determining what constitutes a valid gift to family, friends, and caregivers while keeping donor protections in place to combat fraud or undue influence.	Enacted Chapter 620
SB 202 Harman	<u>Trustees: Duties</u> Makes minor changes to the Probate Code relating to trusts, including clarifying when trustees must give "trustee notification" to beneficiaries, the settlor's heirs, and the Attorney General. Also, increases the size of small trusts that the trustee has the discretionary power to terminate from \$20,000 to \$40,000.	Enacted Chapter 621
SB 1038 Harman	<u>Powers of Attorney: Duties</u> Clarifies statute in order to hold attorneys-in-fact liable for damages to an estate if the attorney-in-fact acted in bad faith.	Enacted Chapter 48
(3) INTERNET / e-COMMERCE / e-GOVERNMENT		
AB 978 V. Manuel Perez	<u>State Chief Information Officer: Duties</u> Would have required the State Chief Information Officer to collaborate with the Department of Consumer Affairs (Department) to acquire a new, integrated, enterprise-wide enforcement and licensing system that would replace the current licensing and monitoring system being used by the Department.	Died in Senate Appropriations Committee
AB 2408 Smyth	<u>State Government Information Technology</u> Codifies the Governor's Reorganization Plan.	Enacted Chapter 404
AB 2548 Block	<u>CURES: Prescription Drug Monitoring Program</u> Would have created enforcement procedures for the Prescription Drug Monitoring Program under the Department of Justice.	Died in Assembly Appropriations Committee

AB 2659
Tran

Business Licensing: Business Master License Center

Would have created the Business Master License Center within the State and Consumer Services Agency, which would administer a centralized computer database as a means of storing, retrieving, and exchanging license information, including issuing and renewing licenses.

**Died in Assembly
Appropriations
Committee**

(4) LANDLORD TENANT / COMMON INTEREST DEVELOPMENTS

AB 331
Hall

Hiring of Real Property

Would have required landlords of certain rental properties to disclose to prospective tenants any outstanding notice of default or pending foreclosure on the property, and allowed the tenant to recover specified damages if the tenancy terminated as a result of a landlord's failure to make that disclosure.

**Died in
Assembly
Appropriations
Committee**

AB 761
**Calderon,
Charles**

Mobilehomes: Rent Control

Would have permitted mobilehome park owners to raise rent by 20% or \$100, whichever is greater, in excess of the maximum rent established by any local ordinance when a space is sold, assigned, transferred, or terminated, with certain exceptions.

**Died in Senate
Judiciary
Committee**

AB 1263
**Strickland,
Audra**

Unlawful Detainer: Service of Notice

Requires a landlord to serve an unlawful detainer notice on a commercial tenant at the rental property, instead of the commercial tenant's place of residence.

**Enacted
Chapter 144**

AB 1726
Swanson

Common Interest Developments: Ballots: Quorums

Would have allowed a homeowners association unable to achieve a quorum for an election of directors, to lower the quorum requirement for the second election to 40% and for the third or additional elections to 33%, unless otherwise specified in the governing documents.

Vetoed

AB 1793
Saldana

Common Interest Developments: Artificial Turf

Would have voided a provision in the governing documents of a common interest development if it prohibited the use of artificial turf or any other synthetic surface that resembles grass in its landscaping rules and regulations.

Vetoed

AB 1927
Knight

Real Property: Common Interest Developments

Would have voided any provision that is added to or included in a governing document, of a common interest development, recorded on or after January 1, 2011, that prohibited the rental or lease of a separate interest, unless the provision imposing the prohibition was approved by the owners of separate interests, as provided.

Vetoed

AB 2016 Torres	<u>Common Interest Developments: Requests for Notices of Default</u>	Enacted Chapter 133
	Allows a homeowners association to file one request with the county recorder to receive notification of default for all properties under its governance.	
AB 2678 Fuentes	<u>Mortgages: Notice of Sale</u>	Failed in Assembly Banking & Finance Committee
	Would have prohibited a mortgagee, trustee, beneficiary, or authorized agent from giving notice of sale if that party is currently in negotiations with the homeowner to modify the loan that is the subject of the notice of sale. Also, would have required borrowers to be informed of a new notice of sale every time a foreclosure sale was postponed.	
AB 2743 Nava	<u>Real Property: Rentals: Animals</u>	Vetoed
	Would have prohibited landlords, that allowed animals on the premises, from advertising or establishing rental policies that require tenants to declaw or devocalize (debark) their animals as a condition of tenancy and subjected a violation to a civil penalty.	
SB 782 Yee	<u>Residential Tenancies: Domestic Violence</u>	Enacted Chapter 626
	Prevents landlords from evicting victims of domestic violence, sexual assault, and stalking, and allows victims of domestic violence to change their exterior locks if they have obtained a restraining order against their perpetrator.	
SB 1128 DeSaulnier	<u>Common Interest Developments: Governance</u>	Enacted Chapter 322
	Allows a non-profit entity that provides services to a common interest development (CID) under a declaration of trust, if it received transfer fees prior to January 1, 2004, to continue to charge transfer fees to the purchasers of units within the CID to which it provides services.	
SB 1149 Corbett	<u>Residential Tenancies: Foreclosure</u>	Enacted Chapter 641
	Prohibits the release of court records in a foreclosure-related eviction unless the plaintiff landlord prevails, as specified, and requires that a prescribed cover sheet, notifying a tenant of his or her rights and responsibilities, be attached to any eviction notice that is served within one year after a foreclosure.	

(5) MISCELLANEOUS CONSUMER ISSUES

AB 634 Harkey	<u>Hazardous Recreational Activities</u>	Enacted Chapter 73
	Adds SCUBA diving to the codified list of hazardous activities for which public entities and public employees have qualified immunity to liability when a person is injured in the course of participating in such activity.	
AB 655	<u>Self-Service Storage Facilities</u>	Enacted

Makes various changes to the remedies and procedures of the California Self Service Storage Facility Act regarding placing a lien on the stored property of occupants who are delinquent in paying their rent or other charges.

AB 1652
Jones

Public Safety: Ski Resorts

Vetoed

Would have required ski resorts to prepare an annual safety plan, to create a monthly summary report stating the fatalities at the resort made available to the public upon request, and would have required the resort to adopt a standardized signage and equipment padding policy.

AB 1656
Ma

Fur Products: Labeling

Vetoed

Commencing September 1, 2011, would have prohibited any person from selling or displaying for sale any clothing apparel containing any amount of animal fur, regardless of the overall price or value of the fur, without an attached and conspicuously displayed tag or label that states the animal from which the fur was acquired and the country of origin of any imported furs used.

AB 1737
Eng

State Agencies: Collection of Demographic Data

**Died in Assembly
Appropriations
Committee**

Would have required state agencies, as specified, to use a modified organization of sub-categories of identification under the major Asian, Native Hawaiian and other Pacific Islander groups. These specified agencies would have had to update collection categories to match those of the United States Census Bureau.

AB 1822
Swanson

Massage Therapy

Vetoed

Would have allowed the California Police Chiefs Association and the California State Sheriffs' Association to appoint one law enforcement member each to the California Massage Therapy Council's (CAMTC) board of directors and restricted the number of law enforcement professionals on the CAMTC to the two members appointed by the California Police Chiefs Association and the California State Sheriffs' Association.

AB 1996
Hill

Chiropractors: License Renewal Fee

**Enacted
Chapter 539**

Increases the renewal fee for a chiropractor's license to a specific amount of \$250, from a fee range, not to exceed \$150 as determined by the Board.

AB 2000
Hagman

Rabies: Vaccinations

**Died in Senate
Appropriations
Committee**

Would have exempted dog owners from vaccinating a dog if a licensed veterinarian determined, annually, that the dog may have a potentially lethal reaction to the canine anti-rabies vaccine.

AB 2059

Vehicle Rental Agreements

Vetoed

**Calderon,
Charles**

Would have provided an alternative method for service of legal process on non-residents who caused injuries involving rental cars in California, up to a maximum contractual limit, by allowing process to be served to the rental car company, instead of the driver. Individuals who chose this method would have limited their cost recovery to the limits of protection provided by the insurance coverage.

**AB 2076
Salas**

Advertising: Floral & Ornamental Products & Services Locations

Vetoed

Would have made it unlawful for a floral vendor to misrepresent the geographic location of its business through the use of a misleading telephone number or business name.

**AB 2118
Hernandez**

Vehicles: Dealers: Consumer Credit Score Disclosure

**Died in Senate
Judiciary
Committee**

Would have revised the form and content requirements of the document that vehicle dealers must provide to consumers when a credit score for the consumer is obtained by the dealer. Also, would have changed the California statutes regarding credit disclosure to match those adopted by the Federal Trade Commission.

**AB 2496
Nava**

Cigarette & Tobacco Products

**Enacted
Chapter 265**

Makes various revisions to California laws that implement the terms of the Tobacco Master Settlement Agreement between states and tobacco product manufacturers.

**AB 2537
Silva**

State Agencies: Adjudications: Presiding Officers

**Died in Senate
Appropriations
Committee**

Would have required certain agencies that conduct an adjudicative proceeding to provide by regulation for preemptory challenge of the presiding officer in cases where the presiding officer is an administrative law judge, and authorized those agencies to provide by regulation for preemptory challenge of a presiding officer who is not an administrative law judge.

**AB 2733
Ruskin**

Cigarettes & Tobacco Products

**Enacted
Chapter 607**

Requires cigarette and tobacco product retailers, that have had their license to sell such products suspended or revoked by the State Board of Equalization, to (1) remove all cigarettes and tobacco products from clearly and easily visible retail stock, (2) post a notice of the suspension or revocation at public entrances and cash registers, and (3) refrain from gifting cigarettes or tobacco products.

**SB 374
Calderon**

Personal Trainers

**Died in Assembly
Appropriations
Committee**

Would have defined the term personal trainer, established educational and training requirements for personal trainers and prohibited individuals from calling themselves personal trainers unless they met those requirements.

**SB 885
Corbett**

Gift Certificates: Redemption

Vetoed

Would have eliminated the ability of retailers to charge dormancy fees on gift certificates, which includes gift cards.

SB 909
Wright

Investigative Consumer Reporting Agencies: Disclosures

Enacted
Chapter 481

Requires an investigative consumer reporting agency (ICRA) to post specified information on its Internet Web site regarding the agency's privacy policies. Also, requires an employer who orders an investigative consumer report for a job applicant to disclose to the applicant the Internet Web site address of the ICRA.

SB 929
Pavley

Hazardous Materials: Children's Jewelry: Heavy Metals

Enacted
Chapter 313

Regulates the levels of the element cadmium (Cd) that can exist within children's jewelry products, authorizes the Department of Toxic Substances Control to adopt standards for Cd levels, and prohibits them from considering cadmium as a product category that is already regulated, for purposes of establishing procedures for identifying Cd in products.

SB 1004
Huff

Vehicles: Licensed Dealers & Salespersons: Credit Scores

Enacted
Chapter 483

Revises the form and content requirements of the document that vehicle dealers must provide to consumers when a credit score for the consumer is obtained by the dealer. Also, changes the California statutes regarding credit disclosure to match those adopted by the Federal Trade Commission.

SB 1043
Calderon

Personal Trainers

Failed in Senate
Business,
Professions &
Economic Dev
Committee

Would have provided that a person may not hold himself or herself out as a personal trainer, unless he or she either had a bachelor's degree in exercise science, kinesiology, fitness science, or another closely related field, or was certified by a national independent organization, or an organization accredited by either the Council for Higher Education Accreditation or by the United States Department of Education.

SB 1192
Oropeza

Airports: Rental Car Facility Fees

Enacted
Chapter 642

Authorizes airport operators to assess an alternative fee on rental cars in order to pay for the construction of consolidated airport rental car outlets.

SB 1264
Leno

Commercial Airlines: Passenger Rights

Died on Senate
Inactive File

Would have established rights for airline passengers detained in an airplane for over two hours, either before takeoff or after landing.

(6) NEW / PROPOSED REGULATORY PROGRAMS

AB 549 Furutani	<u>Licensure: Clinical Laboratory Personnel</u>	Vetoed
	Would have included clinical biochemical geneticists in the list of clinical laboratory personnel licensed by the Department of Public Health and allowed for the issuance of temporary licenses to certain license categories.	
AB 660 Torrico	<u>Sprinkler Fitters: Licensing</u>	Died in Senate Appropriations Committee
	Would have required certification and regulation of sprinkler fitters by the State Fire Marshal and would have prohibited a person from performing work on a fire suppression system without a certificate or permit issued by the State Fire Marshal.	
AB 1647 Hayashi	<u>Athletics</u>	Vetoed
	Would have created a title act for “certified” athletic trainers and made it an unfair business practice for individuals to call themselves a certified athletic trainer without meeting specified requirements.	
SB 250 Florez	<u>Dogs & Cats: Spaying & Neutering</u>	Failed in Assembly Unfinished Business
	Would have made it unlawful for any person to own an unsterilized dog or cat six months of age or older, with certain exemptions, and subjected the owner to various penalties, including mandatory sterilization of the animal and impoundment costs.	
SB 929 Pavley	<u>Hazardous Materials: Children's Jewelry: Heavy Metals</u>	Enacted Chapter 313
	Regulates the levels of the element cadmium (Cd) that can exist within children's jewelry products, authorizes the Department of Toxic Substances Control to adopt standards for Cd levels, and prohibits them from considering cadmium as a product category that is already regulated, for purposes of establishing procedures for identifying Cd in products.	
SB 1098 Corbett	<u>Athlete Agents</u>	Vetoed
	Would have repealed the Miller-Ayala Athlete Agents Act which governs the conduct of athletic agents, replacing the existing law with the Uniform Athlete Agent Act developed by the National Conference of Commissioners on Uniform State Laws. Also, would have required athlete agents to register with the Department of Industrial Relations (DIR) and required DIR to issue registration certificates based on the application forms and certificates of other states with similar registration requirements. The Veto message states the program would be more appropriately placed within the Department of Consumer Affairs.	